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In the Supreme Court of the United States

OCTOBER TERM, 1965.

No. 772.

JOHN PHIL FELBURN,

Petitioner,

vs.

THE NEW YORK CENTRAL RAILROAD COMPANY, and FRUEHAUF TRAILER COMPANY,

Respondents.

PETITIONER'S SUPPLEMENTAL APPENDIX

Containing Excerpts From Defendant-Appellee's Physical Exhibits J-1 and K-1 and Identifying Excerpt from Record.

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STATEMENT.

The Excerpts printed hereinafter in this Supplemental Appendix are from the Printed Record and Physical Exhibits on file in the Supreme Court of the United States.

DEFENDANT-APPELLEE'S PHYSICAL EXHIBIT J-1.

(Translation of Behrens Patent No. 1,053,411.)

Federal Republic of Germany. German Patent Office
Class 81e 120

Specification 1,053,411 B 35462 XI/81e
Internat. Class B 65 g

Date of application: April 23, 1955. Announcement of the application and issue of the specification: March 19, 1959.

Process for the loading and unloading of road vehicles to be shipped on railroad cars, and transport vehicle to carry out the process.

Applicant: Rudolf Behrens, 192b Niedergeorgswerder-deich, Hamburg-Wilhelmsburg.

Rudolf Behrens, Hamburg-Wilhelmsburg, has been named as the inventor.

* * * * *

CLAIMS

1. Process for loading and unloading of road vehicles to be shipped on railroad cars, particularly of multi-axle trailers and semi-trailers with sets of wheels detachable from the carriage, which are readied on a track which lies in the same or nearly the same plane as the rails, characterized in that the carriages with the part containing the load, on changing from the road to the railroad travel, is brought without its set of wheels onto the railroad car in such a way that the carriage is pushed directly from at least one of its sets of wheels and is pushed crosswise to the railroad car at least to its longitudinal center of gravity, and leaving behind the other set of wheels or of the tractor vehicle is so swiveled on the railroad car platform that its longitudinal axis, as is familiar in itself with road-reversal vehicles, runs parallel to the longitudinal axis of the track, while one taking up the highway travel again the part of the road vehicle loaded on the train is taken over by a set of similar or fitting sets of wheels in reverse sequence.

* * * * *

TESTIMONY OF RUDOLPH BEHRENS (R. 135a).

Q. Are you the Rudolph Behrens who is the patentee of this German Patent No. 1,053,411 (handing exhibit to witness)? A. Yes.

Q. Have you written any publications relating to the same subject matter as this German patent? A. Yes, in the Journal Schiene-Strasse.

Q. What does "Schiene-Strasse" mean in English, Dr. Perbix?

The Interpreter: It means rail-street—rail-road.

Mr. Conner: Rail and road?

The Interpreter: That's right, transportation by means of rails and transportation by means of road, in that sense.

Mr. Conner: I ask the Clerk to mark as Defendants' Exhibit K a copy of the bulletin Schiene-Strasse.

EXCERPTS FROM DEFENDANT-APPELLEE'S PHYSICAL EXHIBIT K-1.

(Translation of Behrens Brochure.)

RAILS-ROADS AND THE SOLUTION OF THIS PROBLEM USING THE TVB TRANSFER SYSTEM.

Since the beginning of transportation with motor vehicles a competition started between the railroads and motorized vehicles. This struggle cost many millions and in many countries the further development and use of trucks is slowed down. Many billions are invested in the railroads and they employ large numbers of people. Therefore, the extinction of railroads would disturb seriously the economy of the respective countries.

* * * * *

Besides this, experiments were made to combine both systems. Besides the use of small containers up to five ton capacity, the so-called piggy-back transportation is used. Special vehicles which are able to roll on the streets or on rails without complicated manipulations and can carry loads up to five tons, are in use.

The so-called piggy-back transportation was introduced in the United States already in the twenties and its use expanded after the construction of the saddle-carrier. A number of railroads discontinued this type of transportation while some continued up to date. This system, however, could not be developed satisfactorily even in the United States.

The reasons for this are the following:

1. The loading of trucks onto the cars is difficult and time-consuming.

2. The loading can be done only using special cars and railroad ramps at the end and sides heaving the height of the car platform.

3. The car capacity is not satisfactorily used with this system.

4. Many trucks, particularly the valuable closed vans, are too high for the existing bridges, after loading them on the cars.

5. The time needed for loading and unloading depends on shunting facilities of the railroads, and is often connected with unnecessary time losses.

6. The different loaders and unloaders interfere one with the other, since it is impossible to service them independent of the others. The last car must be unloaded first after arrival, while all others must wait their turn.

* * * * *

The Requirements to Be Considered for the Solution of the Problems, and Achievements Through the Use of the TVB System.

The requirements are as follows:

1. Predominantly saddle carriers and pick-ups of existing construction with all the usual characteristics, such as low weight, high speed, high shunting capabilities, rugged and simple construction, should be used.

2. The additional weight of the construction needed for the transfer of the load carrying pick-up to a car should not exceed 1,200 kilograms.

3. The extra cost of the pick-up so equipped should not exceed DM 6,000.

4. This construction should not be made of complicated

5. There should be no parts requiring additional space or shortening the loading length.

6. The transfer of the load carrying pick-up should not require additional labor besides the drivers. The construction must be fool-proof and the sequence of operations must be so interlocked that the transfer could be done also by unskilled labor without danger of accident.

7. The railroads should not ask for additional services, in particular no additional shunting work or technical adaptations. The only exception would be works in the yard which the railroad can always do with local unskilled labor.

8. In cases where a mixed freight train, having for example about 40 platform cars, stands at the loading street, it must be possible for every carrier to load or unload his pick-up independently of others.

9. The carrying capacity of a pick-up should be minimum 15 tons.

10. In order to reduce the expenses, the load carrying companies should be permitted to use their pick-ups for advertising of their services.

In agreement with the above requirements, the TBV System uses saddle carriers of the usual construction and size. They carry 10 to 20 ton loads. The additional mechanism does not project beyond the body, is built simply and rugged, without easy-to-damage parts. These pick-ups do not require any special additional installations at the railroad. The only exception is that the width of the loading street is adequate to permit an approach of the hauler under approximately right angle to the car and the distance between road and car platform would be approximately the same along the street. The height of the loading street should be about 15 centimeters above top of rails. This can be done easily by using local labor. In large city terminals, space for these loading streets can be easily provided by removing a double rail without decreasing the present transfer capacity.

* * * * *

This system permits free movement to the hauler. It enables a step by step introduction without larger expenditures by the railroad. As long as the railroad maintains piggy-back transportation, for example, as between Hamburg—Frankfurt or Muelheim, a carrier having offices in both cities can start out with this system. There are long distance haulers or carriers transporting every day up to 15 loads from the Rhine provinces to Hamburg and back. Using this system, their earnings will increase considerably as compared with the sending of those loads every night to Hamburg by rail.

It can be introduced also by the railroad in particular for the clients who are served now by a wagon roller. The so-called sidespur is one of the big losing enterprises, because in order to deliver to the client a 15 ton load, the following equipment is needed:

1 heavy locomotive of 15 ton weight
1 wagon roller of 10 ton weight
the car itself 9 tons net weight

Thus 34 tons of net weight must be transported which is about 22 tons more than for the TVB System.

Besides this, these transports require a police escort and interfere very much with the traffic. The delivery of the car or bringing it back on the railroad rails requires much time. With this system, the railroads could regain again 75 per cent of traffic they lost.

Further advantage for the railroad:

1. The railroad can stop its fight against the motor vehicles without asking for unpopular laws.

2. It is possible for the railroad to make a good profit granting the hauler the present piggy-back tariffs, because the railroad can move goods considerably cheaper.

* * * * *

The railroad can save thousands of cars because the unloading or transfer time would be only a fraction of the previous required time.

* * * * *

With the further development of the system, the railroad can limit the number of its shunting terminals which are very expensive to maintain since the TVB System is developed taking the future shunting requirements in consideration. It is for example possible to transfer the pick-

ups from a complete train within the shortest time moving along special transfer stands. They can also be very fast transferred to the cars eventually completely automatically.

* * * * *